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No. 94-1941

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

UNITED STATES OF AMERICA,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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BRIEF FOR THE COMMONWEALTH OF VIRGINIA, *ET AL.*, IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the Commonwealth of Virginia's single-sex admissions policy for the Virginia Military Institute and the Virginia Women's Institute for Leadership is constitutional given the findings by both courts below that this policy is substantially related to the achievement of important state objectives.

2. Whether the Commonwealth's policy of providing substantively comparable single-sex educational programs to men and women is constitutional where the programs are not identical in every detail but instead incorporate the judgments of educational experts as to the methodologies that will best achieve the same educational benefits for the women and men in each program.

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Respondents the Commonwealth of Virginia, Governor George F. Allen, the Virginia State Council of Higher Education, the Virginia Military Institute, its Board of Visitors and Superintendent, the VMI Foundation, Inc., and the VMI Alumni Association respectfully submit this brief in opposition to the petition for a writ of certiorari.

INTRODUCTION

The Commonwealth of Virginia offers students of either gender the opportunity to enroll in a state-supported single-sex college program that is designed to develop leadership and character through a comprehensive system of curricular and co-curricular activities including military training. Male students are offered this opportunity through the

Virginia Military Institute (VMI), an historically all-male undergraduate institution; women students are offered this opportunity through the Virginia Women's Institute for Leadership (VWIL), a state-supported program at Mary Baldwin College (MBC), an historically all-female private undergraduate institution. The question on which petitioner seeks review in this case is whether the Commonwealth's decision to offer this unique combination of single-sex educational opportunities for men and women violates the Equal Protection Clause merely because the VWIL and VMI programs do not use identical educational methods to achieve their admittedly identical goals.

STATEMENT

The petition filed by the Solicitor General glosses over crucial facts found by the district court and approved by the court of appeals below. Because the extensive factual record provides a complete refutation of petitioner's contention that further review is warranted, respondents set forth below a more complete statement of the relevant facts.

A. Background

There are 15 public four-year undergraduate institutions in Virginia; these institutions enrolled 72,819 men and 85,441 women in 1989. Historically, many of these institutions maintained single-sex admissions policies, but nearly all are now coeducational. VMI and VWIL are at present the only single-sex college programs supported directly by the Commonwealth. Pet. App. 10a, 185a-189a.[1]

[1]There are also five private single-sex four-year colleges in Virginia, four of which admit only women and one of which admits only men. The Commonwealth provides financial aid to Virginia residents who attend these and other private colleges in Virginia. Pet. App. 189a-191a.

1. Mary Baldwin College

MBC, the home of the VWIL program, was founded in 1842. Beginning in the 1860s, MBC provided a program of study for women patterned on the curriculum of mathematics, classics, and science then offered only to men at the University of Virginia. In recent decades, MBC has responded to the changing role of women in society by expanding its curriculum "to include the new options open to women in business and the professions." Pet. App. 122a. Accordingly, MBC has "developed an emphasis on career planning," has "computerized the campus," and has added "new facilities for the communications and computer science disciplines" and "new state of the art equipment for its science labs." *Id.* at 122a-123a. In short, MBC "is committed to the education of women for a world of expanding opportunity." *Id.* at 122a.

MBC has over 1300 students, approximately 700 of whom are residential undergraduate students. MBC has a Phi Beta Kappa chapter, is accredited by the Southern Association of Colleges and Schools, and has repeatedly been ranked among the top ten liberal arts colleges in the Southeast. MBC's 55-acre campus in Staunton, Virginia, includes the facilities of the former Staunton Military Academy, residence halls, classroom buildings, computer and science laboratories, a 40,000-square-foot physical education facility, playing fields, tennis courts, and a swimming pool. Pet. App. 123a, 125a-129a.

The student-faculty ratio in MBC's residential program is eleven to one. MBC offers 28 undergraduate majors, including degrees in mathematics, sciences, business, and the arts. MBC also offers pre-law and pre-med programs, as well as joint-degree engineering programs with Washington University and with the University of Virginia. Pet. App. 123a-124a; App., *infra*, 17a, 19a-23a. MBC is "geared in the direction of trying to encourage women to persist in math and physics." *Id.* at 126a.

MBC enjoys "a record of success in developing new programs and operating distinctive and unique programs within the larger traditional undergraduate residential community." Pet. App. 125a. For example, MBC has successfully established a unique residential educational program for academically gifted, high-school-age female students. The program is tailored to "the academic, emotional and developmental needs of young women." *Id.* at 126a.

2. Virginia Military Institute

VMI, which was founded in 1839, has an enrollment of about 1300 students. It employs a unique "adversative" system for developing character and leadership in young men. The adversative method is intended to create doubts about students' previous beliefs and experiences and thereby prepare them to accept the values and behavior taught by VMI. Pet. App. 175a n.10, 189a, 191a-192.

"Physical rigor, mental stress, absolute equality of treatment, absence of privacy, minute regulation of behavior, and indoctrination in desirable values are the salient attributes of the VMI educational experience." Pet. App. 191a-192a. First-year VMI students are subjected to an extreme form of the adversative model known as the "rat line," which "is comparable to Marine Corps boot camp in terms of both the physical rigor and mental stress of the experience." *Id.* at 194a-195a.

Students at VMI live in a four-story barracks housing one class per floor. "There is a total lack of privacy" in the barracks: there are no door locks or window shades, and the doors to the students' rooms contain open windows that permit "the officer in charge to . . . see every cadet without anything being hidden." Pet. App. 198a-199a. The barracks features group bathrooms[2] and "close and intimate

[2]There is one bathroom on each floor, serving up to 400 students. Each bathroom has group showers with about 24

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quarters." *Id.* In short, "there is literally no place in the barracks that physically affords privacy," and students are thus "under constant scrutiny." *Id.* at 198a, 199a. This total lack of privacy and constant scrutiny is an integral part of the VMI experience. *Id.* at 199a.

Also of crucial importance to the VMI method is its strict egalitarianism. "The VMI experience is based on absolute equality, which is achieved through treating everyone in exactly the same way." Pet. App. 237a. The spartan and public nature of life in the barracks "is an aspect of the egalitarian ethic at VMI," as is the fact that VMI imposes the same physical requirements on all students, regardless of ability. *Id.* at 198a, 233a.

Each VMI student must participate in an ROTC program like those offered at other undergraduate institutions. Unlike the federal military academies, which exist to prepare their graduates for career service in the armed forces, VMI's military emphasis is primarily a teaching device; only 15 percent of VMI graduates choose military careers. Pet. App. 116a-117a, 200a, 206a, 218a-219a.

B. Initial Proceedings Below

1. The District Court's Liability Decision

The United States brought suit against respondents in 1990, seeking admission of women to VMI. After a six-day trial, the district court found for respondents under the standard enunciated in *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718 (1982), which asks whether a challenged gender-based classification "'serves important gov-

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heads, and there are no doors on the partitions separating each toilet. Pet. App. 128a, 240a.

ernmental objectives and [whether] the discriminatory means employed are substantially related to the achievement of those objectives.'" Pet. App. 165a.

Based on the unrebutted expert testimony and academic studies in the record, the court found that a "substantial body of 'exceedingly persuasive' evidence supports VMI's contention that some students, both male and female, benefit from attending a single-sex college." Pet. App. 168a; *see id.* at 167a-170a, 174a, 176a, 225a-227a. The court further found that VMI's adversative method is beneficial to adolescent males, but ill-suited to most adolescent females. Pet. App. 171a-172a, 223a-225a.[3]

These findings were based, not on stereotypes or preconceived notions, but rather on the informed judgments and testimony of leading professional educators and social scientists. As the court explained, a "substantial body of contemporary scholarship and research supports the proposition that, although males and females have significant areas of developmental overlap, they also have differing developmental needs that are deep-seated," and thus that "there are important differences between men and women in learning and developmental needs." Pet. App. 223a-224a. Moreover, the court expressly found that "[these] psychological and sociological differences between men and women are real differences, not stereotypes." *Id.* at 225a.[4]

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[3]These findings, of course, refer to the developmental characteristics of college-age male and female students, and reflect the sensitive and sometimes difficult nature of the transition from late adolescence to adulthood that such students are experiencing. The district court made no such findings with respect to students at the graduate or post-graduate educational levels.

[4]Even petitioner's education expert conceded this point, agreeing that "there clearly are differences between men and women, and not only obvious physiological ones, but ones

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The district court also found that "key elements of the adversative VMI educational system . . . would be fundamentally altered, and the distinctive ends of the system would be thwarted, if VMI were . . . to make changes necessary to accommodate [the] needs and interests" of female students. Pet. App. 167a. Substantial changes would inevitably be required to crucial aspects of VMI's educational method, including the rigorous physical training program[5] and the constant scrutiny and total lack of privacy in the barracks.[6] And the belief that these changes would occur "is well-founded in empirical evidence, and not based on stereotype." *Id.* at 171a.

These changes would necessarily lead to differential treatment of distinct groups of VMI students on the basis of gender, thereby contradicting VMI's core principle of absolute equality of treatment.[7] Moreover, coeducation "would

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having to do in part with how they interact, how they learn and so on." 91-1690 C.A. Br. 24; 91-1690 C.A. App. 625.

[5]*See* Pet. App. 233a ("If women were admitted to VMI, it would be necessary to change certain physical training program courses and to set different standards. . . . Either [some aspects] would have to be abandoned, or there would have to be accommodations that would result in a dual track for women."); *id.* at 234a ("If VMI were coeducational and females were subjected to the same physical demands as male cadets, females would suffer on the order of 300% more injuries than males."); *id.* at 221a.

[6]Pet. App. 233a ("Adaptations would have to made in order to provide for individual privacy, for the sake of the men as well as for the sake of the women. . . . The introduction of privacy required by admission of women at VMI would contradict the principle that everyone is constantly subject to scrutiny by everyone else.").

[7]Pet. App. 237a ("The VMI experience is based on absolute

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produce cross-sex relationships among cadets that would significantly alter the character-building and leadership-development aspects of the VMI experience." Pet. App. 239a. As a result, "it would be impossible for a female to participate in the 'VMI experience,'" because "her introduction into the process would change it. Thus, the very experience she sought would no longer be available." *Id.* at 175a; *see also id.* at 176a, 227a.

The district court therefore concluded that VMI's admissions policy was constitutional under *Hogan*, because it was substantially related to the important state objectives of increasing educational diversity and providing the "substantial educational benefits" of single-sex education and the VMI method. Pet. App. 173a, 176a-177a.

2. The Court of Appeals' Liability Decision

The court of appeals affirmed the district court's findings of fact but vacated and remanded for further proceedings. In particular, the court of appeals upheld the district court's findings that "VMI's unique methodology justifies a single-sex policy" and that "the record supports the conclusion that single-sex education is pedagogically justifiable, and VMI's system . . . even more so." *Id.* at 151a; *see id.* at 137a, 150a, 155a.

The court also affirmed the district court's findings "that VMI's mission can be accomplished only in a single-gender

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equality, which is achieved through treating everyone in exactly the same way. . . . Given the actual physiological, psychological, and sociological differences between males and females, it would be impossible to treat everyone fairly by continuing to treat them the same if women were admitted to VMI. Equal treatment would necessarily give way to fair treatment, thus undermining egalitarianism.").

environment and that changes necessary to accommodate coeducation would tear at the fabric of VMI's unique methodology." Pet. App. 148a. Admission of women would require creation of "a dual track physical training program" which would in turn lead to perceptions of unequal treatment, jealousy, and resentment. *Id.* at 146a-147a. The total lack of privacy engendered by the barracks system would no longer be possible. *Id.* at 147a. And the VMI system would be unable to accommodate the cross-sex confrontation and harassment that would necessarily occur if VMI attempted to maintain its adversative method in a coeducational setting. *Id.*[8]

Accordingly, the court of appeals concluded that the admission of women to VMI "would deny those women the very opportunity they sought because the unique characteristics of VMI's program would be destroyed by coeducation." Pet. App. 148a. Nonetheless, the court held that the Commonwealth had failed to justify its policy of providing single-sex education only to men. *Id.* at 151a-154a. The court remanded the case to permit the Commonwealth to formulate an acceptable remedy such as "establish[ing] parallel institutions or parallel programs." *Id.* at 156a.

3. VMI's Petition for a Writ of Certiorari

VMI filed a petition for a writ of certiorari seeking review of the court of appeals' liability determination. *VMI v. United States*, No. 92-1213. Petitioner filed a brief in opposition, asserting that certiorari was not warranted because of the fact-bound nature of the court of appeals'

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[8]Importantly, the court of appeals expressly rejected petitioner's claim that this finding was based on stereotyping: "the evidence supported the district court's finding that cross-sexual confrontation and interaction introduces additional elements of stress and distraction which are not accommodated by VMI's methodology." Pet. App. 147a.

decision and because this case involves only the constitutionality of VMI's "unique" educational program and therefore does not present important or recurring legal issues. 92-1213 Br. in Opp. 9-20. This Court denied certiorari. 113 S. Ct. 2431 (1993).

C. Proceedings on Remand

1. Virginia Women's Institute for Leadership

Believing that its educational goals would best be served by continuing to provide the option of single-sex education, the Commonwealth chose to extend that option to women through creation at MBC of a state-supported program known as the Virginia Women's Institute for Leadership (VWIL). VWIL will provide single-sex undergraduate education with military training in an integrated program designed "to produce the 'citizen soldier,' *i.e.*, women who are trained for leadership in both civilian and military life." Pet. App. 63a.

In 1993, MBC formed a task force of professionals in the field of single-sex education to plan and implement VWIL. The task force "made an in-depth study of the published literature on the developmental psychology of women and the cognitive development of women" and "consulted outside experts" in addition to drawing on its own collecive experience in women's education. Pet. App. 63a, 103a. After conducting "a detailed study of the approriate methods by which the leadership program should be strucured," including an examination of "the VMI methodology and outcomes" (*id.* at 63a, 104a), the task force concluded that VMI's adversative method "would be wholly inapprorite for educating and training most women for leadership roles." *Id.* at 63a.[9]

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[9]Petitioner has sought to discredit these conclusions by labeling them "stereotypes." The factual findings below are to the

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Accordingly, the task force developed a program that is specifically designed to develop women leaders through use of a "method which reinforces self-esteem rather than the leveling process used by VMI." Pet. App. 64a. Like VMI, VWIL offers an integrated and "highly structured program" that combines "the co-curricular and the curricular to promote the student's development in all phases of her life" and that pursues "the same five goals as those pursued at VMI: education, military training, mental and physical discipline, character development, and leadership development." *Id.* at 8a, 63a, 103a-104a. More than 40 young women have now accepted admission to VWIL's entering class and paid nonrefundable deposits. App., *infra*, 16a.

As part of the VWIL program, students must demonstrate computer and foreign language proficiency and complete courses in calculus, statistics, and laboratory sciences. In addition, they must complete an extensive leadership development curriculum, a leadership externship, leadership laboratory activities, two Leadership Speaker Series, and community service projects. *Id.* at 9a, 64a-65a, 108a-109a.[10] No male students will attend classes with VWIL

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contrary, however, and petitioner's unsupported characterizations ignore the fact that the task force was composed largely of women whose profession it is to educate female students for leadership roles in society. C.A. App. 269. These individuals have spent their professional lives in this field and would be the very first to detect and reject harmful stereotypes about female college students.

[10]Petitioner complains (Pet. 9-10 & n.7, 18) that VWIL students cannot obtain a bachelor of science degree or a state-financed engineering degree. In fact, however, VWIL students can choose from a variety of science and mathematics majors

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students. *Id.* at 65a.

Women enrolled in VWIL are also required to complete four years of an ROTC program through cross-enrollment agreements between MBC and the ROTC units at VMI.[11] These ROTC programs will utilize the uniform ROTC curriculum and methods including standardized military physical training and evaluation activities, and will provide the same leadership training and military career opportunities as all other ROTC programs. Pet. App. 67a, 109a, 116a-117a; App., *infra*, 12a-13a. VWIL students will also constitute a corps of cadets with military rank, will wear uniforms, will drill in ROTC, and will participate in the Virginia Corps of Cadets, which consists of all VMI and VWIL cadets together with the coeducational Virginia Polytechnic Institute and State University (VPI) Corps. *Id.* at 110a.[12]

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offered at MBC (Pet. App. 123a), and will have an opportunity to obtain a state-supported degree in engineering through a newly established dual degree program with the University of Virginia. App., *infra*, 17a, 19a-23a. The district court found that there would be only "a very slight demand for an engineering program at an all female VWIL." Pet. App. 65a.

[11]The military's ROTC programs do not utilize adversative training methods, and it is not necessary for students to be exposed to those methods or to the other aspects of the VMI program in order to succeed in ROTC and the military. Pet. App. 67a, 118a.

[12]VPI's Corps of Cadets has a mission similar to that of VMI and VWIL, but seeks to achieve the same results in the setting of a large coeducational university, thereby enhancing the diversity of the Commonwealth's educational offerings. The VPI Corps is a residential ROTC unit with about 400 male and female students. VPI cadets who are single must live in the Corps residence hall, and all cadets wear uniforms and adhere

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In addition to their ROTC physical training and drill, VWIL students will be required to complete eight semesters of physical and health education, including self-defense and an advanced fitness course designed for VWIL students. Pet. App. 111a. VWIL students will also receive special "training in self-defense and self-assertiveness" as part of a program "designed to be analogous to the VMI 'rat challenge'" and consisting of a variety of "physically and mentally challenging events." *Id.* at 112a. In sum, VWIL's physical training program "is designed to be comparable in rigor and challenge to the physical training test for men at VMI." *Id.*

Before the start of their freshman year, VWIL students will participate in a special "cadre week orientation" to be run by upperclass VWIL students and designed to provide "a physically and mentally demanding experience which will foster bonding and which will be a paradigm for VWIL itself." Pet. App. 110a, 114a. Freshmen VWIL students will room together in freshman residence halls and will be subject to a variety of regulations, including spot inspections and a required study hall. "[T]he VWIL program will use the highly disciplined schedule of the VMI model." *Id.* at 66a-67a, 114a.

After their freshman year, VWIL students will be required to live for at least one year in the VWIL House, which will be the center for VWIL meetings and activities. Pet. App. 115a. Upperclass VWIL students will serve as mentors for incoming VWIL students and will play an important role in orienting incoming students, enforcing rules and regulations, teaching VWIL standards and expec-

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to military-type regulations and discipline. Pet. App. 214a-218a.

tations, organizing and directing drills, and leading the VWIL Corps. *Id.* at 115a-116a. VWIL students will be subject to MBC's honor code system. *Id.* at 114a-115a.

Both the Commonwealth and VMI have provided extensive financial and other support for the development and implementation of VWIL, and they and MBC are committed to the program's success. Pet. App. 68a, 81a-83a, 102a-106a. The Commonwealth has expressed "unambiguous and unequivocal support of single-sex education for men and women," and all relevant Virginia officials "have strongly supported VWIL." *Id.* at 81a, 83a.[13] The Virginia General Assembly has enacted legislation mandating equal funding (on a per-student basis) for VWIL and VMI without any limit on the maximum number of VWIL students. *Id.* at 10a, 80a & nn. 18-19; App., *infra*, 12a.

VMI has cooperated extensively in the development of VWIL, and "has committed to support the VWIL program." Pet. App. 102a, 105a. VMI and MBC have jointly formed a leadership education advisory board that will study "the advancement of leadership training at VMI and MBC" and will monitor the outcomes of the two programs. *Id.* at 105a; App., *infra*, 6a, 14a; *see also id.* at 17a, 24a-26a. The VMI Foundation has provided substantial financial support for the implementation of VWIL and is committed to providing VWIL with an additional $5.5 million endowment once final court approval has been obtained. Pet. App. 120a; App., *infra*, 6a-7a, 12a.

VMI is also committed to providing VWIL with full access to and support from its alumni network. VMI alum-

[13]Petitioner notes (Pet. 4 n.2) that former Governor Wilder expressed personal opposition to the exclusion of students from public educational institutions on the basis of gender, but Governor Wilder subsequently submitted an affidavit in support of VWIL, stating that it "will remedy all current discrimination." Pet. App. 81a n.20.

ni and admissions personnel assist in recruiting applicants for VWIL. Pet. App. 120a-121a; App., *infra*, 3a, 5a, 10a, 14a. The VMI Alumni Association has extended its placement services and networks to VWIL, will assist VWIL students in obtaining leadership externships, and has begun to develop joint alumni networking opportunities with MBC. Pet. App. 121a; App., *infra*, 6a. In short, "[t]he attitude of VMI alumni toward VWIL is extremely supportive. They are committed to making VWIL work." Pet. App. 121a.

2. The District Court's Remedial Decision

After conducting a six-day trial and considering the testimony of 18 expert witnesses (Pet. App. 87a-98a), the district court found that the Commonwealth had satisfied the requirements of the Equal Protection Clause by offering VWIL as a single-sex leadership education program for women. Rejecting petitioner's argument that the Commonwealth was required to provide a mirror-image VMI for women, the court expressly found that "VWIL is a good design for producing female citizen-soldiers" and that "the differences between VWIL and VMI are justified pedagogically and are not based on stereotyping." *Id.* at 67a, 76a.[14]

[14]This finding is supported not only by evidence introduced by respondents but also by statements of petitioner's witnesses. For example, according to petitioner's expert Dr. Alexander Astin, "[s]ome of the largest gender differences occur in the area of psychological well-being: the declines in psychological well-being (feeling depressed, feeling overwhelmed, low self-rating on emotional health) are all stronger among women than among men during the undergraduate years." C.A. App. 278. *See also* Pet. App. 225a (noting that petitioners' witness Colonel Patrick Toffler, Director of the Office of Institutional Research at West Point, conceded that "[t]he psychological and sociological differences between men and women are real differences, not stereotypes").

In support of these findings, the court relied on expert testimony that "the VWIL approach towards educating and preparing women leaders was preferable to the VMI approach" and indeed that "the demand for an all-women's VMI would be so small as to make the project unfeasible," whereas "there would be much more significant demand for VWIL." *Id.* at 73a, 75a & n.12.

Indeed, as the court noted, Dr. Elizabeth Fox-Genovese, "one of the leading experts on the educating of women," testified that "an adversative method of teaching in an all-female school would be not only inappropriate for most women, but counter-productive," because it would be destructive of women's self-confidence. Pet. App. 64a, 74a. Petitioner offered *no* experts in single-sex education, leaving this testimony effectively unrebutted. Moreover, the court expressly rejected the testimony of Dr. Carol Jacklin, petitioner's expert in psychology, who asserted that the differences in methodology at VMI and VWIL were based on stereotypes. *Id.* at 72a-73a. The court explained that Dr. Jacklin's "testimony was contradicted by most of the evidence in the record," including her own admissions that women students tend to be less aggressive in the classroom and would "have more chances for leadership at single-sex institutions." *Id.*

The district court also found that VWIL was likely to attain its goal of producing "citizen-soldiers" well prepared for leadership roles in civilian and military life. Pet. App. 83a. Based on the experts' conclusions that "the methods adopted for the VWIL will produce the same or similar outcome for women that VMI produces for men" (*id.* at 64a) and that "VWIL will produce the kind of self-assurance in the face of accomplishment of difficulties that VMI offers and requires of its cadets" (*id.* at 75a-76a), the district court rejected petitioner's argument that VWIL must mirror VMI. Instead, the court held that VWIL satisfied the Commonwealth's constitutional obligations because it

"will achieve substantially similar outcomes in an all-female environment and . . . there is a legitimate pedagogical basis for the different means employed to achieve the substantially similar ends." *Id.* at 76a.

3. The Court of Appeals' Remedial Decision

The court of appeals affirmed and remanded for further proceedings. The court made clear at the outset that, in addition to the two-pronged test applied by this Court in *Hogan*, it was requiring the Commonwealth to satisfy a third requirement, which entails "carefully weighing the alternatives available to members of each gender denied benefits by the classification" in order to determine whether those alternatives are "substantively comparable." Pet. App. 17a.

Turning to the first prong of the *Hogan* test, the court reaffirmed the factual finding that "single-gender education at the college level is beneficial to both sexes," and concluded that "a state's opting for single-gender education as one particular pedagogical technique among many" is "a legitimate and important governmental objective." Pet. App. 20a, 21a. The court next concluded that the Commonwealth's decision to provide single-sex education through VMI and VWIL was directly related to the Commonwealth's legitimate and important objectives, because "the only way to realize the benefits of homogeneity of gender is to limit admission to one gender." *Id.* at 22a. In addition, the court found that "[t]he classification for single-gender education at VMI is also directly related to achieving the results of an adversative method in a military environment," because essential "'characteristics of VMI's program would be destroyed by coeducation.'" *Id.* at 6a-7a, 23a.

Finally, the court concluded that the benefits offered by VMI and VWIL were "substantively comparable." Pet. App. 24a-28a. After scrutinizing the two programs, the

court found that "the mission and goals are the same, and the methodologies for attaining the goals, while different, nevertheless are reasonably calculated to succeed at each institution." *Id.* at 27a. Moreover, the differences in the two programs are justified because they are "attributable to a professional judgment of how best to provide the same opportunity." *Id.* at 26a.

Indeed, as the court explained, providing women with a program identical to VMI would not be practicable, because "[e]ducational experts for the Commonwealth testified that women may not respond similarly" to an adversative approach and that a women's program identical to VMI "would attract an insufficient number of participants to make the program work." Pet. App. 27a. Accordingly, the court of appeals upheld the remedy approved by the district court. In order to ensure the effective and successful implementation of VWIL, the court remanded the case to the district court with instructions to oversee the remedy. Pet. App. 30a.

REASONS FOR DENYING THE WRIT

The petition meets none of this Court's criteria for the exercise of its certiorari jurisdiction. In the first place, the petition is limited to remedial issues, but threshold questions about the correctness of the court of appeals' liability determination would likely preclude the Court from reaching those issues in this case.[15] Moreover, as set forth

[15]Respondents have filed a conditional cross-petition challenging the court of appeals' liability determination. *See Virginia v. United States*, No. 94-___. Regardless of the disposition of that cross-petition, however, the threshold question of liability will arise in this case if the Solicitor General's petition is granted, because a judgment may be defended on any ground supported by the record. *Schweiker v. Hogan*, 457 U.S. 569, 585 n.24 (1982); *United States v. New York Telephone Co.*, 434 U.S. 159, 166 n.8 (1977). Of course, respondents fully

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below, there is no conflict among the circuits, nor (despite petitioner's contentions to the contrary) is there any inconsistency between the decisions of this Court and the decision below. Indeed, petitioner's challenge to the court of appeals' ruling rests fundamentally on petitioner's rejection of explicit factual determinations rather than on any legal question of substantial or recurring importance. Petitioner simply disagrees with the factual findings by both courts below that the differences between the VMI and VWIL programs reflect pedagogically justified responses to non-stereotypical differences between male and female college students. That fact-bound disagreement is not worthy of review, and the petition should therefore be denied.

A. The Judgment Below Does Not Conflict With Any Decisions Of This Court Or Of Any Other Appellate Court

As petitioner implicitly concedes, there is no circuit conflict on the questions raised in the petition. Indeed, the decision below is consistent with the only lower court opinions (and judgments of this Court) addressing the constitutionality of dual single-sex educational programs. *Compare Vorchheimer v. School Dist.*, 532 F.2d 880, 882, 887-88 (3d Cir. 1976) (upholding separate boys' and girls' high schools because they were "comparable" but not identical), *aff'd by equally divided Court*, 430 U.S. 703 (1977), and *Williams v. McNair*, 316 F. Supp. 134 (D.S.C. 1970)

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support the VWIL program and accept the remedial ruling below, but the absence of a proper basis for the court of appeals' liability determination will provide an alternative (and logically prior) ground for affirmance in the event of review by this Court.

(upholding separate public "school for young ladies" where State also supported a single-sex "military school" for men), *aff'd*, 401 U.S. 951 (1971), *with* Pet. App. 25a, 28a (State must "affor[d] to both genders benefits comparable in substance, but not in form and detail").

Petitioner instead asserts that certiorari is warranted because of purported conflicts between this Court's precedents and the decision below. These purported conflicts do not exist, however, and further review is therefore not warranted.

1. *Sweatt v. Painter* is Inapposite

Petitioner errs in contending (Pet. 16, 18) that the decision below "conflicts with" *Sweatt v. Painter*, 339 U.S. 629 (1950). *Sweatt* involved a *racial* classification, not a gender-based classification, and this Court has never applied (or even cited) *Sweatt* in a case involving the latter issue.[16] Petitioner cites this Court's decision in *Hogan* for the proposition that the "separate but equal" test applied in *Sweatt* is also applicable here (Pet. 17, citing 458 U.S. at 720 n.1), but the cited footnote instead reveals that the *Hogan* Court did not address that issue, which was not presented on the facts of that case.

Moreover, even petitioner is apparently unwilling to take

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[16]Indeed, in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978), a case involving racial classifications in education, Justice Powell's controlling opinion relied in part on *Sweatt* (*see id.* at 287, 313-14) but expressly rejected the relevance of the legal standards applied in cases involving gender-based classifications, noting that "the Court has never viewed [gender-based] classification as inherently suspect or as comparable to racial or ethnic classifications for the purpose of equal protection analysis." 438 U.S. at 303; *accord Vorchheimer*, 532 F.2d at 886 (holding that *Sweatt* is "inapplicable" in analyzing constitutionality of dual single-sex schools).

the position that the Court's analysis in *Sweatt* is applicable without modification in the context of single-sex schools. Instead, petitioner suggests (Pet. 16) that differential treatment of the genders is permitted if the State "justif[ies] any inequality under a standard of heightened constitutional scrutiny." But that is not the test set forth in *Sweatt*, and the fact that petitioner feels compelled to rewrite *Sweatt* before attempting to extend it to gender-based classifications is simply further evidence of the inapplicability of that decision in this context. And in any event, the findings below demonstrate that VMI and VWIL would satisfy the hybrid test proposed by petitioner, so there is no possibility of a conflict. *See* Pet. App. 76a ("there is a legitimate pedagogical basis for the different means employed [by VMI and VWIL] to achieve the substantially similar ends"); *id.* at 26a, 27a.

2. The Alleged Conflict Asserted by Petitioner Reflects Nothing More Than Disagreement With the Facts Found Below

Petitioner also asserts (Pet. 16, 19) that the decision below conflicts with *Hogan*, *J.E.B. v. Alabama ex rel. T.B.*, 114 S. Ct. 1419 (1994), and similar cases involving the constitutionality of gender-based classifications. According to petitioner, this purported conflict arises because the court of appeals did not apply the test enunciated in those cases, which asks whether "the difference in treatment serves important governmental objectives and is substantially related to the achievement of those objectives." Pet. 19.

Petitioner's attempt to manufacture a conflict with this Court's gender-discrimination precedents rests upon a misreading of the decisions below. Both courts below expressly acknowledged and applied the precise legal standard

quoted by petitioner. *See* Pet. App. 13a, 145a, 165a.[17] Petitioner disagrees with the conclusion reached by the lower courts in applying that standard to the facts of this case, but that fact-bound disagreement hardly justifies the exercise of this Court's certiorari jurisdiction.

Indeed, a careful reading of the petition demonstrates that petitioner's real objection to the decision below is aimed at the factual underpinnings of that decision, not the legal standard applied by the court of appeals. Petitioner's principal and often-repeated claim is that the court of appeals allegedly based its ruling on "stereotypes" and "archaic notions" about women and their proper role in society. *See, e.g.*, Pet. 15, 19-24. That assertion, however, is directly contrary to the factual findings below, and the issues raised in the petition effectively disappear once those findings--rather than petitioner's characterizations--are examined.

As the district court found, modern scholarship and research demonstrates that "there are important differences between men and women in learning and developmental needs," and these "psychological and sociological differences are real differences, not stereotypes." Pet. App. 224a, 225a. Moreover, the court found that VWIL was carefully designed to achieve the same results as VMI by taking account of these differences in its student body, and thus "the differences between VWIL and VMI are justified pedagogically and are not based on stereotyping." *Id.* at 76a.[18] The court of appeals agreed, explaining that "the

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[17]As noted above, the court of appeals went beyond *Hogan*'s two-pronged test by creating a *third* prong that also had to be satisfied by the Commonwealth, but petitioner obviously does not and cannot contend that the creation of this additional requirement (which did not affect the result below and merely imposed an unduly high burden on respondents) provides a basis for review.

[18]Indeed, even petitioner's expert witnesses did not assert that

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difference [between VWIL and VMI] is attributable to a professional judgment of how best to provide the same opportunity." *Id.* at 26a.

These findings demonstrate conclusively that this case is wholly unlike *Hogan*, *J.E.B.*, or the other cases cited by petitioner (Pet. 19-21 & n.17). Rather than relying on outdated stereotypes or unfounded presumptions about the respective roles of the genders, the courts below considered the most up-to-date sociological, psychological, and physiological research and expert opinion and found, based on a "reasoned analysis" of the evidence, that real differences between adolescent men and women and between the optimum methods of educating them justify the methodological differences between VWIL and VMI. Neither the Constitution nor this Court's cases require more.[19]

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the VWIL program would be inappropriate or ineffective for women. Pet. App. 68a, 76a. Petitioner's expert on curricular and co-curricular offerings admitted that neither VMI's program nor VWIL's program was "better than the other." *Id.* at 69a n.5, 96a. Petitioner's contention in this Court that VWIL reflects harmful stereotypes and prejudicial views of women is thus contrary to the record and findings below.

[19]Petitioner contends (Pet. 22) that the Constitution forbids educators to take account of demonstrable differences in the educational needs of male and female adolescents because such differences "may well reflect the effects of long-standing sex-based limitations on social roles." Petitioner offers no support for this *ipse dixit*, however, and whatever its validity, it would hardly follow that educators must ignore these real differences in formulating education programs. Instead, the approach most in keeping with the Constitution's mandate of equal opportunity would be for educators to develop programs that are designed to *eliminate* any lingering effects of past societal stereotyping by developing self-confident graduates who are well-equipped to seek and obtain positions in all facets of

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In short, the factual findings by the courts below are fatal to petitioner's attempt to create an inconsistency between the judgment below and the decisions of this Court. Petitioner's quarrel is with the record, not the law, but this Court does not sit to review facts found by two lower federal courts. *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 665 (1987); *United States v. Doe*, 465 U.S. 605, 614 (1984).[20] The purported "conflict" identified by petitioner

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American society, regardless of archaic notions about which gender is better suited to a particular job. The findings and expert evidence in the record demonstrate that single-sex education tends to *reduce* the effects of societal stereotyping on both men and women by making students "more likely to take the risk of choosing a career normally associated with the other sex," Pet. App. 226a, and that VWIL will be *more* effective than a mirror-image VMI at preparing most women students to assume leadership roles in modern society. *Id.* at 27a, 63a-64a, 73a-74a.

[20]Petitioner's cavalier treatment of the facts is also apparent from its argument (Pet. 20, 21) that exclusion of women from VMI perpetuates an "archaic, exclusive association of each gender with particular professions--here the premise that men, and not women, are fit to be military leaders." Exclusion from VMI sends no message of unfitness for a military career, because (with the exception of the service academies) *all* undergraduate institutions--including VMI, VWIL, and the coeducational University of Virginia and VPI--produce military leaders in precisely the same way: through standardized ROTC programs that are the same across the Nation. The district court specifically found that (1) "nothing about the ROTC programs at VMI is unique to VMI other than the absence of women," (2) non-VMI students perform marginally *better* than VMI students in their ROTC programs, and (3) VWIL's ROTC programs will offer "the opportunity to be commissioned in the armed services." Pet. App. 116a-117a, 119a. Thus, women enrolled at VWIL have at least as good

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simply does not warrant review.

3. No Decision of this Court Supports the Contention that Admission of Women to VMI is the Only Acceptable Remedy

Petitioner also errs in contending (Pet. 23-26) that the decision below conflicts with precedents of this Court holding that "overbroad . . . generalizations" cannot be used to justify "sex-based classifications that are applied to foreclose individual opportunity." In the first place, as already noted, the differences between VMI and VWIL are not based on "'archaic'" and "'outdated'" assumptions or "'stereotypical'" notions containing at most a "'shred of truth'" (Pet. 24 & n.20), but are instead predicated on the expert knowledge, advice, and research of highly regarded professional educators and social scientists. The cases cited by petitioner are therefore inapposite.

Second, the cases on which petitioner relies involved gender-based classifications that were overbroad in that they excluded all members of the disfavored class even though the governmental justification for the classification was not applicable to many of the excluded individuals and thus was not served by their exclusion. In this case, by contrast, the gender-based classification is not overbroad. Rather, it is directly and precisely tailored to the Commonwealth's legitimate and substantial interest in providing a diverse educational system that offers the unique benefits of a single-sex college education, and those benefits simply cannot be achieved without a gender-based admissions policy.

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an opportunity to become military leaders as they would if they were enrolled at VMI, and there is no basis for petitioner's assertions to the contrary.

Third, petitioner is simply wrong in suggesting that a classification is invalid if there are any members of one gender as to whom the classification is not accurate. This Court has never held that there must be a paradigmatically perfect fit between a gender-based classification and the interests served by it, and petitioner points to no authority to the contrary. Instead, petitioner cites cases holding that a gender-based classification must be "substantially related" to the achievement of the underlying objective.[21] As this Court made clear in *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547 (1990),[22] however, a classification need not be accurate "in every case" in order to survive intermediate scrutiny. Rather, as long as the empirical evidence suggests that the classification will, "in the aggregate," advance the underlying objective, the classification will be upheld as the "product of 'analysis' rather than a 'stereotyped reaction' based on '[h]abit.'" 497 U.S. at 579, 582-83.[23] That approach is particularly appropriate in the con-

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[21]Petitioner also cites (Pet. 24 n.20, 25 n.21) Justice Brennan's plurality opinion in *Frontiero v. Richardson*, 411 U.S. 677 (1973). That opinion, however, applied "strict judicial scrutiny" to a gender-based classification. *Id.* at 688. That approach has never been adopted by the full Court, and petitioner has not asked the Court to revisit that issue (which was, in any event, neither pressed nor passed upon below). Petitioner's reliance on the *Frontiero* plurality is therefore inappropriate.

[22]In *Adarand Constructors, Inc. v. Pena*, No. 93-1841 (U.S. June 12, 1995), slip op. 26, this Court overruled *Metro Broadcasting*'s holding that certain federally mandated race-based classifications are subject only to intermediate scrutiny. The *Adarand* Court did not suggest that *Metro Broadcasting* represented an inaccurate illustration of the intermediate-scrutiny standard, however, and thus *Metro Broadcasting* continues to provide guidance on that issue.

[23]*Accord Schlesinger v. Ballard*, 419 U.S. 498, 508 (1975)

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text of higher education, because educational programs must of necessity be designed to accommodate group characteristics and preferences rather than the desires of individual students.

Finally, petitioner's argument in this regard, as well as its requested remedy (Pet. 26-29), rests on the false assumption that those few women who might be interested in experiencing the unique elements of a VMI-type education could do so if a different remedial approach were mandated by the courts. That assumption is belied by the record and findings below, which demonstrate conclusively that it

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(rejecting argument that separate classification of male and female Navy officers was based on impermissible "archaic and overbroad generalizations" where facts demonstrated that women "will not *generally* have compiled records . . . comparable to those of male[s]") (emphasis added). Petitioner's argument that perfect tailoring is required rests on a misreading of the relevant precedents. For example, petitioner cites *Craig v. Boren*, 429 U.S. 190 (1976), in support of this argument (*see* Pet. 25 n.21), but the classification invalidated in *Craig* was almost absurdly imprecise. *See* 429 U.S. at 201-202, 203 n.16 ("if maleness is to serve as a proxy for drinking and driving, a correlation of 2% must be considered an unduly tenuous 'fit,'" and the alleged "statistical disparities between the sexes are not substantial"). Likewise, petitioner relies (Pet. 24-25) on *J.E.B.*, but most of the empirical evidence in that case refuted the existence of *any* correlation between gender and juror attitudes. 114 S. Ct. at 1426-27 & n.9. *See also Hogan*, 458 U.S. at 731 (record was "flatly inconsistent" with assertion that classification was related to proffered justification); *Frontiero*, 411 U.S. at 689 ("[t]he Government offer[ed] no concrete evidence . . . tending to support its view that" the challenged classification advanced the proffered governmental interest).

would be impossible to duplicate the VMI experience for women with the mathematical precision expected by petitioner.

In the first place, a separate women's program identical to VMI would be unworkable and financially impossible because too few women would be interested in participating in such a program. As the court of appeals noted, petitioner did not offer sufficient evidence to refute respondents' showing at trial that "if the state were to establish a women's VMI-type program, the program would attract an insufficient number of participants to make the program work." Pet. App. 27a; *see id.* at 73a, 75a & n.12.[24]

Likewise, as both courts below found, women cannot be admitted to VMI itself without destroying the very aspects of its program that serve to distinguish it from VPI, VWIL, and other institutions. Pet. App. 6a-7a, 24a-25a, 146a-148a, 170a-173a, 227a, 233a-234a, 237a-239a. The fundamental characteristics of VMI's educational method, including the adversative system, the total absence of privacy, and the strict egalitarianism that pervades all aspects of the program, would undergo radical change or disappear altogether with the admission of women, thus denying those women "the very opportunity they sought because the unique characteristics of VMI's program would be destroyed by coeducation." *Id.* at 6a-7a.

Petitioner disputes the accuracy of the latter finding, arguing (Pet. 27-29) that it is factually inaccurate and is

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[24]Based on West Point's experience in recruiting for its non-adversative, coeducational program, the district court concluded (Pet. App. 174a) that "some women" would want to attend a *coeducational* VMI (with the modified educational program entailed by coeducation). Petitioner offered *no* evidence of any significant interest in a mirror-image VMI for women, however, and thus it is undisputed that such a program would not be feasible.

improperly based on "sex-based generalizations." This challenge to the findings of both lower courts is not worthy of review, of course, and it is also incorrect. The evidence at trial--as distinct from the conclusory and baseless assertions of petitioner's counsel--demonstrates that VMI's adversative method would necessarily go the way of West Point's similar system if VMI were to become coeducational.[25] Indeed, the Marine Corps has been able to preserve the harsh regimen of its boot camps only by returning to a single-sex methodology (Pet. App. 235a), and petitioner points to no basis for concluding that VMI would have a different experience. In short, petitioner's characterizations of the facts of this case are simply false, and further review of these fact-bound issues is neither warranted nor appropriate.

B. The Questions Presented In The Petition Are Not Of Recurring Or Widespread Importance

For the reasons set forth above, the decision below does not conflict with any decisions of this Court or other appellate courts, and petitioner's disagreement with the court of appeals' ruling involves nothing more than case-specific

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[25]As the district court found, West Point modified and then abandoned the adversative model altogether after women were admitted, and it also rejected fixed physical training standards in favor of "comparable" training, thereby creating inequalities and resentment among the cadets. Pet. App. 235a-241a. Even petitioner made clear below that coeducation would require substantial changes in VMI's method, including the introduction of separate sports teams and dual-track physical education activities for women, the creation of privacy rights on the basis of gender, and the elimination of "harassment" deemed inappropriate for women. C.A. App. 99-103, 107-108. The result of these changes, of course, would be the complete demise of VMI's core ethos of equal treatment for all. Pet. App. 237a.

questions about the accuracy of the factual determinations made by the courts below. Nor does petitioner suggest that a decision on the merits in this case would have widespread impact or significance such that a grant of certiorari would be appropriate even absent any of the usual justifications for this Court's review. According to the petition, this case "does *not* require the Court to address the validity of public single-sex education generally." Pet. 16 n.13 (emphasis added). Instead, petitioner repeatedly emphasizes the purported *narrowness* of the questions presented, arguing that the judgment below is wrong because this case involves the "unique" educational methodology of a "unique" school. Pet. 15, 16 n.13. Indeed, petitioner even suggests (Pet. 27) that the remedy allegedly required here may be inapplicable in other cases involving single-sex schools, again because of the unique facts of this case.

Taking petitioner at its word, this case is simply not of sufficient general or recurring importance to merit review. Indeed, as petitioner explained in opposing review at an earlier stage of this case, further review is not warranted at this time because the rulings below rest on facts that "primarily involve VMI, an institution that petitione[r] [has] consistently described as 'unique.'" 92-1213 Br. in Opp. 19. "There is only one other all-male public college [in the Nation] besides VMI, and the fact that a challenge to its single-gender policy might raise issues similar to those of this case does not, standing alone, warrant further review." *Id.* at 19-20.

Petitioner's earlier objections to certiorari are at least equally applicable here. The Court previously denied certiorari in this case, and the petition identifies no persuasive reason for reaching a different result now.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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June 23, 1995

APPENDIX

APPENDIX

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APPENDIX A

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA	)	
Plaintiff,	)	
v.	)	CIVIL ACTION NO. 90-0126-R
COMMONWEALTH OF VIRGINIA, et al.,	)	
Defendants.	)	

DEFENDANTS' FIRST STATUS REPORT

Pursuant to the Court's April 29, 1994 order approving Defendants' Proposed Remedial Plan ("Plan") and directing a status report of the progress of the Plan implementation every six months, Defendants, the Commonwealth of Virginia, et al. ("the Commonwealth") file this first status report.

Implementation Date. In accordance with the Court's order, the Virginia Women's Institute for Leadership ("VWIL") will commence with the 1995 fall semester. Orientation of entering students will begin on August 23,

1995. The first class of students is being recruited at the present time as described below.

The United States has appealed this Court's order approving the Plan to the United States Court of Appeals for the Fourth Circuit. The Court granted the motion of the Commonwealth to expedite the appeal in light of the ongoing recruiting of students. Oral argument was heard on September 28, 1994. No opinion has issued to date.

Contract for Services. The Plan provides for state funding of VWIL through a contract for services among the Commonwealth of Virginia, Virginia Military Institute ("VMI") and Mary Baldwin College ("MBC"). Plan at 13. On September 27, 1994, the Commonwealth of Virginia, acting by and through the State Council of higher Education for Virginia, approved the contract for services. A copy of the fully executed contract is attached as Exhibit 1.

VWIL Administration and Development. The VWIL Task Force rendered its final report to the MBC faculty on July 15, 1994. On September 9, 1994, the MBC faculty voted to approve the report, which constitutes final faculty approval of the VWIL curriculum. A copy of the report is attached as Exhibit 2. The Director of VWIL will develop the syllabi for the new leadership courses, described on p. 6 of Exhibit 2, subject to faculty review.

On July 12, 1994, President Tyson appointed Dr. Heather Wilson as acting Director of VWIL. Dr. Wilson also serves as the Dean of Students at MBC. Mr. Alan Duesterhaus was designated assistant to the acting Director of VWIL. Approximately 50% of their time has been devoted to the VWIL development since their respective appointments.

A Search Committee has been constituted to recruit a permanent Director of VWIL. A copy of advertisements in the Chronicle of Higher Education and Black Issues in Higher Education is attached as Exhibit 3. The Search Committee includes Dr. Wilson, Mr. Duesterhaus, mem-

bers of the MBC faculty, and a student representative. The Search Committee expects to fill the Director's position as of January 1, 1995. As of October 21, forty applications had been received. The Search Committee met on October 26 to establish criteria for reviewing applications and to begin the review process.

VWIL Recruiting. The staff of the MBC Admissions Office has been expanded by the addition of one recruiter whose primary responsibility is recruitment for VWIL. The position was filled as of July 15, 1994.

The Admissions Office developed a recruiting program after receiving proposals from a marketing firm. The VWIL recruiter has met with representatives of the VMI Admissions Office and the ROTC units at VMI to coordinate recruitment and referrals of female applicants. A recruiting budget of $96,000 for salary, recruiting material, and travel expenses has been allotted.

MBC recruiters are scheduled to visit approximately 500 high schools and, in addition, to attend more than 300 high school college fairs, between September 1994 and May 1995 to recruit for VWIL. High school military academies are included in the itinerary. The recruiting brochure and accompanying letter, attached as Exhibit 4, have been mailed to approximately 1300 high school students. Approximately 1000 of the recipients were identified by a student search for young women potentially interested in military and/or ROTC training. A VWIL view book is being developed and will be available for recruiting in November 1994. The VWIL recruiter is also sending a letter of introduction of herself and VWIL to all Virginia high school counselors.

A High School Visit Day was held at MBC on September 10, 1994 for high school girls and their parents. The afternoon session was devoted exclusively to VWIL. Of the 54 girls who participated, nine attended the VWIL

session. A second High School Visit Day in the same format is scheduled for November 12.

As of October 21, eighty-three inquiries regarding VWIL have been received from prospective students and parents of prospective students. The application form, which supplements the MBC application form, is attached as Exhibit 5 and became available on October 6, 1994. Applications will be accepted through April 15, 1995. As of October 21, one application had been received. Applicants who apply by February 15 will be notified by March 15. Applicants who apply by March 15 will be notified by April 15, and applicants who apply by April 15 will be notified by May 1.

ROTC. The acting Director of VWIL has met on several occasions with representatives of the ROTC programs conducted at VMI by the United States Army, the United States Navy/Marine Corps and the United States Air Force. On October 24, the acting Director of VWIL visited the United States Air Force ROTC unit at Maxwell Air Force Base. Cross-enrollment agreements have been developed between VMI and MBC, and are pending approval by the respective cadet commands.

VWIL Uniforms. The acting Director of VWIL is developing the uniform design with assistance from the uniform company that provides uniforms for the VMI Corps of Cadets.

Orientation Program Development. The acting Director of VWIL has developed the format for the orientation program for all new VWIL students, which will be conducted for one week before the commencement of the 1995 MBC fall session. VWIL women will participate in a four-day, physically rigorous, confidence-building wilderness experience in New Castle, Virginia, conducted by Wilderness Adventure, which is headed by a VMI graduate. The new members of the VWIL Corps will return to the

MBC campus for two days of VWIL orientation, including issuance of uniforms and drill practices.

Assessment Development. In spring 1994, MBC replicated most aspects of VMI's annual alumni survey in a survey of MBC alumnae to gather baseline data and to identify any methodological issues. Dr. Lewis Askegaard, Director of Institutional Research at MBC, has continued to consult with Colonel Steve RiCharde, his counterpart at VMI, to identify assessment instruments for the VMI cohort entering in the fall of 1995, the conditions of testing, and timing, all of which are to be replicated to the extent possible with the entering class of VWIL. They have also begun to explore some methodological issues, such as the comparative size of the two cohorts and the gender-specific differences in starting points on the various assessment instruments. Dr. Askegaard expects to operationalize the VWIL outcomes and specify assessment strategies for review by VMI and VWIL by the end of 1994.

Cooperation with VMI. Colonel Michael Bissell has been designated as liaison on behalf of VMI with VWIL. He has provided consultation on military training and the ROTC programs, assisted in the development of the VWIL uniform, and participated in the coordination of calendars between VMI and VWIL for activities such as field maneuvers.

The VMI Admissions Office is referring all female inquiries to the VWIL recruiter. At college fairs, young women are referred to the VWIL recruiter by VMI recruiters and alumni.

The ROTC officers at VMI have provided orientation or ROTC programs and scholarships to the VWIL recruiter, who has been invited to attend ROTC classes and field exercises.

The VMI Physical Education Department and the VMI Air Force ROTC are providing information and assistance to Sharon Spalding of the MBC Physical Education Depart-

ment, who is developing the VWIL physical fitness test and VWIL physical education program.

Colonel Steve RiCharde is continuing to consult with Dr. Lewis Askegaard in the development of a comparative assessment of VWIL and VMI.

Joint Advisory Board on Leadership Education. The Joint Advisory Board has been constituted and will hold its first meeting on November 4, 1994 at MBC. The membership of the Joint Advisory Board, the draft agenda and mission statement are set forth in Exhibit 6.

Joint Alumni Activities. The VMI and MBC Alumni Associations are planning joint alumni/alumnae activities. The Associations held a joint meeting in Mobile, Alabama on October 18, 1994.

Funding by the VMI Foundation. The September 25, 1993 Agreement ("Agreement") between the VMI Foundation ("Foundation") and MBC contemplated that VWIL would not admit students and the Foundation would not endow VWIL unless final court approval were obtained after all appeals had been exhausted. To provide funding for the commencement of VWIL in the 1995 fall semester notwithstanding that appeals may not have been exhausted, and to allow the continuation of funding to permit completion of the program by entering students in the event that final court approval is not ultimately obtained, the Foundation and MBC have entered into a First Amendment of the Agreement dated September 29, 1994 ("First Amendment"). A copy of the First Amendment is attached as Exhibit 7.

In accordance with the Agreement, the Foundation made payments to MBC before September 29, 1994, totaling $150,000, which have been expended on VWIL development to date. On September 29, 1994, the Foundation paid MBC $165,000 in accordance with paragraphs 1 and 9 of the First Amendment. The First Amendment also provides for a payment of $150,000 on or about January 1, 1995, to

fund the completion of the development of VWIL. The First Amendment further provides that the construction fund is immediately available, that the scholarship fund is available for students entering VWIL in the 1995 fall semester, and that a monthly payment of $22,760.42 (the income stream on the Permanent Endowment) shall begin on September 1, 1995 and continue until the transfer of the Permanent Endowment. The First Amendment also establishes the obligations of the Foundation and MBC in the event final court approval is not obtained after commencement of VWIL.

Pursuant to the Court's Order, Defendants will file a further Status Report within six months.

COMMONWEALTH OF VIRGINIA, GOVERNOR GEORGE F. ALLEN and THE STATE COUNCIL OF HIGHER EDUCATION

By:_____/s/_____

VIRGINIA MILITARY INSTITUTE, ITS BOARD OF VISITORS, SUPERINTENDENT, THE VMI FOUNDATION, INC. AND THE VMI ALUMNI ASSOCIATION

By:_____/s/_____

APPENDIX B

**IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	CIVIL ACTION NO. 90-0126-R
COMMONWEALTH OF VIRGINIA, et al.,	)	

Defendants.

DEFENDANTS' SECOND STATUS REPORT

The Court's April 29, 1994 order approved Defendants' Proposed Remedial Plan ("Plan") and directed a status report of the progress of the Plan implementation every six months. Pursuant to the order, Defendants, the Commonwealth of Virginia, et al. ("the Commonwealth") file this second status report.

The United States appealed this Court's opinion and order to the United States Court of Appeals for the Fourth Circuit. On January 26, 1995, the Fourth Circuit issued its opinion affirming this Court's judgment and injunction mandating the implementation of the Plan. The appeals court also affirmed this Court's retaining jurisdiction to oversee implementation and remanded the case with

instructions that this Court include, as part of its oversight of the Plan's implementation, a specific review of the qualifications and compensation of the program administrator, the promotion of the program, the adequacy of state funding and the mechanism for continuing review of the program by qualified professional educators. United States v. Commonwealth of Virginia, et al., 44 F.3d 1229, 1242 (4th Cir. 1995). On March 20, 1995, the Fourth Circuit entered an order sua sponte "temporarily staying the issuance of the mandate." Order, Exhibit 1.

On April 28, 1995, the Court entered an order announcing that a poll failed to produce a majority of the Court in favor of rehearing. Order, Exhibit 2.

Defendants have continued to proceed with the implementation of the Plan and the commencement of the Virginia Women's Institute for Leadership ("VWIL") at Mary Baldwin College ("MBC") in the fall semester of 1995. Recruiting of high school seniors for the entering class and promotion of the VWIL program has been and continues to be conducted as described in the First Status Report (attached as Exhibit 3) and below.

As of April 28, 1995, 31 young women (of whom 29 are Virginia residents) have accepted admission to the entering class and paid deposits (nonrefundable after May 1, 1995) of $300 each. Applications for admission to the entering class received through April 17, 1995 totaled 64. Offers of admission have been extended to 52 young women. Eighteen offers are outstanding. In addition, 2 applications are pending review by the Admissions Committee. The average high school grade point average (GPA) of the students accepted into VWIL is 3.5 on a 4-point scale; the average combined SAT score is 1031.

VWIL Recruiting and Promotion. The MBC Admissions Office conducted the recruiting program for VWIL as described in the First Status Report. Lori A. Esch was primarily responsible for VWIL recruiting, and was assisted

by the admissions staff of 7 recruiters in addition to alumnae volunteers. Approximately $70,000 was expended in recruiting the entering class and identifying prospects for future classes. For the 1995 entering class, 239 prospects were identified. The MBC Admissions Office corresponded with 120 young women who responded to the mailings described in the First Status Report and interviewed 45 young women. To date, 100 prospects have been identified for the entering class of fall 1996, and 21 for the entering class of fall 1997.

MBC recruiters visited 618 high schools and high school fairs in Virginia and in 18 other states to recruit for VWIL. In addition, MBC recruiters pursued referrals from the VMI Admissions Office and from the ROTC officers stationed at VMI.

The VWIL program has also been promoted through speaking engagements by President Cynthia H. Tyson, former Acting Director of VWIL Heather A. Wilson, Professor Carrie Douglass, VWIL Director Brenda L. Bryant, staff member Crista R. Cabe, and others. Dr. Tyson has delivered approximately 20 speeches on VWIL since the first status report in October of 1994. The MBC College Relations Office has placed or provided information on VWIL for stories and reports in radio, television, newspapers and magazines, resulting in over 300 public mentions of the program nationally since October, including segments on the Fox Morning News and the Doug Wilder Show. Samples of clippings from the print media are attached as Exhibit 4.

Continued promotion of VWIL through speaking engagements and publications is one of the responsibilities of the Director of VWIL (see below).

MBC has established a budget of $50,000 for VWIL recruiting and promotion during the 1995-96 academic year.

VWIL Administration. Dr. Heather Wilson, Dean of Students, served as acting Director of VWIL through February 1995. On March 1, 1995, Dr. Brenda L. Bryant assumed the position of permanent director. Dr. Bryant's education and professional experience are described in Exhibit 5.

Dr. Bryant was selected through a nationally advertised search. The Search Committee, which was composed of two administrators, four faculty and one student, received 54 applications. The Committee considered academic credentials and/or teaching experience, community life experience, administrative skills, potential as a role model, communication skills and experience with single-gender education/support roles. The Committee conducted a further evaluation of ten candidates, including reference checks. Four finalists were selected for a full day of interviews at MBC where they met Dr. Tyson, the Search Committee, the VWIL Admissions Recruiter, the Dean of the College and various faculty and students. Dr. Bryant was the unanimous choice of the Committee.

Dr. Bryant's compensation is at the level of a dean of special programs at MBC. Her compensation and benefits are described in Exhbit [*sic*] 6, which is being filed under seal at the request of MBC. Dr. Bryant's responsibilities as VWIL director are described in Exhibit 7. Dr. Bryant, as the VWIL director, provides direction and coordination to the VWIL program. The director reports to the Dean of the College and manages program implementation through a series of advisory councils. These councils are the Advisory Council for Research and Assessment, the Inter-Divisional Academic Advisory Council for VWIL, the External Advisory Council for VWIL, the Advisory Council on Military Leadership, the VWIL Admissions Committee, the Co-Curriculum Advisory Council, and the Physical and Health Education Advisory Council. Mission statements are attached as Exhibit 8.

The VWIL operating budget for 1995-96 will depend upon the number of students enrolled in the program. A working operating budget of $182,710 was developed based on a minimum class of 10 students. Since it appears that the number of entering students will be at least twice the minimum class size, the budget for 1995-96 will be increased. The operating budget does not include faculty salaries, admissions, financial aid and other expense categories which are not administered by the VWIL Director. The budget for these other expense categories, based on 10 students, would be $375,522 in 1995-96.

VWIL Funding. The Virginia General Assembly has provided funding for Virginia women in the VWIL program in the same per capita amount as appropriated for Virginia men at VMI. For the 1995-96 academic year, this will amount to $7,308 per student. In addition, VWIL will receive an amount estimated to be $1900 per student pursuant to the per capita distribution of the Unique Military Appropriation among the Virginia Corps of Cadets, which includes the corps at VMI, VPI, and VWIL. The appropriation legislation is attached as Exhibit 9.

The VMI Foundation has also provided the funding set forth in the Agreement of September 25, 1993 and the First Amendment of September 29, 1994, previously filed with the Court as an exhibit to the Plan and Exhibit 7 to the First Status Report, respectively. The VMI Foundation has made all payments in compliance with the agreements.

In the opinion of MBC, the VWIL program is adequately funded in the Virginia biennial budget through June 30, 1996.

ROTC. Cross-enrollment agreements among MBC, VMI and the Cadets command of the United States Army and United States Navy have been executed and are attached as Exhibits 10 and 11. A cross-enrollment agreement with the United States Air Force is pending approval. In 1995-96, ROTC classes and laboratory will be conducted on the VMI

post. It is anticipated that ROTC officers will provide counseling to VWIL students at MBC. Drill and ceremony instruction will be conducted at MBC. Colonel Bissell, VMI liaison to VWIL, and the officers in charge of each of the ROTC units at VMI have been collaborating with Dr. Wilson and Dr. Bryant to schedule and arrange the ROTC courses, field exercises and other requirements for VWIL students.

Residential Regulations and Co-curricular Requirements. Dr. Bryant is developing the residential regulations and co-curricular requirements described generally in the Task Force Report which will be integral to the program goals of taught discipline and leadership training.

VWIL Uniforms. VWIL students will be issued dress and ROTC classroom uniforms and fatigues for training exercises. Uniform regulations, in addition to ROTC requirements, are being developed by Dr. Bryant. Under consideration also is an arrangement for VWIL to use the services of the quartermaster store and tailor shop at VMI.

Physical Education Program. MBC advertised nationally for a new position in its Physical Education Department which will concentrate on the physical fitness program for VWIL. Two candidates from 56 applicants have been interviewed.

A new course developed specifically for VWIL, Advanced Fitness, has been approved by the faculty. A copy of the syllabus is attached as Exhibit 12. A fitness test is being designed in accordance with national ROTC standards for women, and will measure strength as well as endurance, flexibility and body composition.

Assessment Program. The VWIL research and assessment program is designed to test cognitive development, affective learning and performance. In addition, it will determine long-term outcomes for the program, ascertain the effectiveness of the instructional program, allow for comparisons with VMI student

development and performance, provide feedback to students and contribute to an expanded understanding of the teaching of leadership to women. The research and assessment program will be monitored by the VWIL Advisory Council for Research and Assessment. In addition, the External Advisory Council for VWIL, which will be composed of experts in leadership education from outside Mary Baldwin College, will provide advice and expertise on assessment and evaluation approaches and tools. The Joint Advisory Board on Leadership Education has also reviewed the assessment plan and assessment instruments.

Joint Advisory Board on Leadership Education. The Board held its second meeting on April 7, 1995 at VMI. The agenda, minutes and attachments to the minutes, are attached as Exhibit 13.

Virginia Corps of Cadets. Dr. Tyson, President of MBC; General Knapp, Superintendent of VMI; and General Musser, VPI Commandant, have formed a committee to develop a program for the Virginia Corps of Cadets.

Cooperation with VMI. Colonel Bissell continues to serve as VMI liaison with VWIL. Consultations continue between VMI and MBC counterparts on ROTC and other military training, physical education and institutional assessment. The VMI Admissions Office makes VWIL recruiting material available at college fairs and other recruiting functions and provides referrals of young women to VWIL. In addition, ROTC officers stationed at VMI assisted in recruiting women to the VWIL.

* * *

Pursuant to the Court's order, the third status report will be filed within six months.

COMMONWEALTH OF VIRGINIA, GOVERNOR GEORGE F. ALLEN and THE STATE COUNCIL OF HIGHER EDUCATION

By: /s/

VIRGINIA MILITARY INSTITUTE, ITS BOARD OF VISITORS, SUPERINTENDENT, THE VMI FOUNDATION, INC. AND THE VMI ALUMNI ASSOCIATION

By: /s/

APPENDIX C

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA	)	
Plaintiff,	)	
v.	)	CIVIL ACTION NO. 90-0126-R
COMMONWEALTH OF VIRGINIA, et al.,	)	
Defendants.	)	

DEFENDANTS' SUPPLEMENT TO SECOND STATUS REPORT

Defendants, the Commonwealth of Virginia, et al. ("Defendants") supplement the Second Status Report, filed April 28, 1995, as follows:

Defendants are proceeding with the implementation of the Plan and the commencement of the Virginia Women's Institute for Leadership ("VWIL") at Mary Baldwin College ("MBC") in the fall semester of 1995.

Entering Class. As of June 21, 1995, 42 young women (of whom 38 are Virginia residents) have accepted admission to the entering class and paid nonrefundable deposits.

ROTC. A cross-enrollment agreement among MBC, VMI and the United States Air Force has been finalized and is attached as Exhibit 1. 24 entering students have elected Air Force ROTC; 12 have elected Navy ROTC; and 6 have elected Army ROTC.

Cooperative Engineering Program with University of Virginia. VWIL students may participate in a dual-degree program leading to a bachelor's degree in science or mathematics from MBC and a master's degree from the University of Virginia in the fields of biomedical, civil, environmental, transportation, nuclear or systems engineering, materials science or engineering physics. The agreement between MBC and the University of Virginia is attached as Exhibit 2.

External Advisory Council. Dr. Tyson has appointed the External Advisory Council to VWIL which will be a mechanism for continuing review of VWIL by qualified educators, in accordance with the mandate of the United States Court of Appeals for the Fourth Circuit in VWIL-II. The agenda of the meeting and the composition of the Council are described in Exhibits 3 and 4. The External Advisory Council will next convene in March, 1996.

* * *

Pursuant to the Court's order, the third status report will be filed within six months of the filing of the Second Status Report.

COMMONWEALTH OF VIRGINIA, GOVERNOR GEORGE F. ALLEN and THE STATE COUNCIL OF HIGHER EDUCATION

By: /s/

VIRGINIA MILITARY INSTITUTE, ITS BOARD OF VISITORS, SUPERINTENDENT, THE VMI FOUNDATION, INC. AND THE VMI ALUMNI ASSOCIATION

By:_____/s/_____

EXHIBIT 2

Memorandum of Understanding for a Dual Degree Program
Leading to a Bachelor's Degree in Science or Mathematics
from Mary Baldwin College
and a Master's Degree in Engineering in Biomedical, Civil (Environmental or Transportation), Material Science,
Nuclear, Systems Engineering or Engineering Physics
from the University of Virginia

Introduction

This dual degree agreement makes it possible for the student to earn a Bachelor's Degree in Science or Mathematics from Mary Baldwin College and a Master's Degree in Engineering in Biomedical, Civil (Environmental or Transportation), Material Science, Nuclear, Systems Engineering or Engineering Physics from the University of Virginia in approximately five years. The program is carefully constructed to meet all degree requirements of both institutions. The dual degree candidate enrolls in the science or mathematics program at Mary Baldwin College for the first three years. During this time the student must complete 102 semester hours of work including all Mary Baldwin College general education requirements and courses required for a major in science or mathematics, including courses in chemistry, mathematics, and physics. Additional courses at Mary Baldwin College may be required for preparation for engineering, depending on the specific program the student plans to enter.

Upon condition that the Mary Baldwin College academic record is strong (i.e. a "B" average or higher, both in mathematics and science courses and overall), the student applies for admission to the University of Virginia School of Engineering and Applied Science as a conditional graduate student. The student will be expected to complete at least 30 undergraduate semester hours at the University of Virginia with a "B" average or higher and have a minimum score on the Graduate Record Examination as designated by the specific engineering program to which she is applying in order to be admitted unconditionally into the appropriate graduate program in engineering. Provided the student earns a "C" or better in each course at the University of Virginia, 30 semester hours of transfer credit will be awarded by Mary Baldwin College which, along with the previous 102 hours, complete the semester hour requirement for the Bachelor's Degree at Mary Baldwin College, as well as the requirements for a major in science or mathematics. The graduate portion of this dual degree program is intended to require approximately 12 months to obtain the degree of Master of Engineering at the University of Virginia. In some cases, the student may choose to undertake a program leading to the degree of Master of Science. Such a program normally requires a longer time (typically one and one-half years) because of the research component of the program.

It is also agreed that authorities at either school will notify those at the other of any changes which affect these programs, with at least one year advance warning.

This agreement has been developed in the firm belief that it provides a valuable new educational opportunity for the citizens of the Commonwealth of Virginia using the existing facilities of Mary Baldwin College and the University of Virginia.

Guidelines and Procedures

(1) To be qualified for the dual degree program, the student must have completed at least 102 semester hours including all general education requirements at Mary Baldwin College. Moreover, the student must have completed four semesters of calculus, including ordinary differential equations; two semesters of chemistry; two semesters of calculus-based physics; and other courses as required for a major in science or mathematics. The student must have a "B" average overall and demonstrated strength in mathematics and science.

(2) To apply for admission to the dual degree program, the student must have the approval of the Dean of the College at Mary Baldwin.

(3) The student then applies for admission to the School of Engineering and Applied Science as a **conditional** graduate student in the appropriate area of engineering. The Mary Baldwin Coordinator for the dual degree program will advise and assist the student in the application process. The application must be submitted directly to Graduate Studies, Office of the Dean, School of Engineering and Applied Science. Deadlines for completed applications are: December 1 for January admission, May 1 for June admission, and August 1 for September admission. At the same time, the student should also notify the administrator for these programs at the University of Virginia.

(4) The student, once admitted to the program, spends the fourth year at the University of Virginia, taking appropriate basic undergraduate courses in engineering and applied science. It is not necessary that all courses taken at UVA be engineering courses or even technical courses. The courses for each student will be selected to provide a useful introduction to engineering while fulfilling the Bachelor's Degree requirements at Mary Baldwin, and will be based on the specific engineering discipline and the advice of the faculty advisor at UVA.

(5) Upon completion of the 30 semester hours at UVA, with individual course grades of "C" or above, the student is awarded the baccalaureate degree from Mary Baldwin College.

(6) After completion of the 30 semester hours at UVA with a "B" average or higher, the student will be eligible for admission into the graduate program in the appropriate area of engineering, provided a satisfactory GRE score has been attained. Typically, this score should be at least 1250, but the various departments commonly grant exceptions provided a basis for doing so exists in the form of a particularly strong course-work record.

Students may also apply to the other engineering programs (Electrical, Mechanical, Chemical, and Aerospace) though these programs are not part of this formal agreement.

(7) A student who elects to pursue a course of studies leading to the degree Master of Engineering may complete that program in approximately one full calendar year (that is, two semesters and one summer). A student in a program leading to the degree Master of Engineering is not eligible for a graduate research assistantship (GRA) or graduate teaching assistantship (GTA).

(8) A student who elects to pursue a course of studies leading to the degree Master of Science may expect to complete that program in about one and one-half years. Financial aid may be available in the form of a graduate research assistantship for such a student. The graduate research assistant is expected to spend a significant amount of time on research directed by a faculty advisor and to present the result of his/her research in an M. S. thesis.

(9) Mary Baldwin College will designate a faculty member the On-Campus Coordinator of the program and will make the dual degree program known to current and prospective students. The University of Virginia School of Engineering and Applied Science will provide the Mary

Baldwin Coordinator with current catalogues, application forms, and other materials necessary for students interested in the program. Also, the School of Engineering and Applied Science reserves the right to limit the number of dual degree candidates admitted to the program.

(10) The agreement will be evaluated every five years by designated representatives from both institutions.

Mary Baldwin College	**University of Virginia**
/s/	/s/
James Lott Dean of the College	Richard W. Miksad Dean of the School of Engineering and Applied Science
Date: May 25, 1995	Date: 6/1/31 [*sic*]

EXHIBIT 3

[SEAL]

Mary Baldwin College

From the Office of College Relations
For More Information: 703/887-7009

For Immediate Release:
June 20, 1995

For More Information:
Crista Cabe or Sara O'Connor
703-887-7011

External Advisory Council for the Virginia Women's Institute for Leadership Holds Inaugural Meeting on the Mary Baldwin College Campus

On June 16, 1995, the External Advisory Council for the Virginia Women's Institute for Leadership held its inaugural meeting at Mary Baldwin College in Staunton, Virginia. The purpose of the External Advisory Council is to recommend instructional content and methods, to recommend methods and tools for assessing the performance of the Institute, and to provide an external perspective on the teaching of leadership. The members of the council are experts in leadership and leadership education, including military education. A VWIL student will be appointed to the council in the fall.

Dr. Brenda Bryant, director of VWIL, said, "VWIL will be a flagship program unique in undergraduate education. We are looking for the best advice from outstanding experts on leadership."

The agenda of the meeting included an overview of the goals and objectives of VWIL, a review of the program's academic and physical education requirements, and a discussion of research and evaluation opportunities.

The advisory council is composed of 11 distinguished members. Six attended the June 16 meeting, including Dr. Linda K. Bunker, Dr. Kenneth E. Clark, Miriam B. Clark, Dr. James E. Colvard, Sally Helgesen and Dr. Curtis J. Smith. Dr. Gloria Randle Scott, Dr. Howard T. Prince, Dr. Josiah Bunting, Sara King and Susan Estrich were unable to attend.

Dr. Linda K. Bunker is an internationally renowned sport psychologist and the associate dean for academic and student affairs in the Curry School of Education at the University of Virginia. Dr. Bunker has authored or co-authored 10 books and has been extensively involved in leadership programs for women.

Dr. Kenneth E. Clark is the Smith Richardson Senior Scinist at the Center for Creative Leadership in Greensboro, North Carolina. He has consulted widely on leadership and is the past president of the American Board in Professional Psychology. He is the co-author of *Impact of Leadership* and *Choosing to Lead*, and he edited for 10 years the *Journal of Applied Psychology*.

Miriam B. Clark is the former associate dean in the College of Arts and Science at the University of Rochester and an educational consultant. With Kenneth Clark, she was co-editor of *Leadership Education: A Source Book and of Measures of Leadership*, and the co-author of *Impact of Leadership* and *Choosing to Lead*.

Dr. James E. Colvard of King George, Virginia, serves as a senior fellow in the Office of the President at the Center for Naval Analysis. He is an expert in management, leadership and the civilian-military interface.

Writer Sally Helgesen of New York City is the author of *The Female Advantage: Women's Ways of Leadership*, a

book which has been hailed as "the classic book" on women leaders.

Dr. Howard T. Prince, II was appointed to be the founding dean of The Jepson School of Leadership Studies at the University of Richmond in 1990. Dr. Prince is a clinical psychologist and has published widely on contemporary leadership topics.

Dr. Curtis J. Smith brings to the panel extensive experience in personnel management and development. He is the director of the Federal Executive Institute, the government's residential facility for executive development in Charlottesville, Virginia

Dr. Gloria Randle Scott is the 11th president of Bennett College, a historically black college for women in Greensboro, North Carolina. She has distinguished herself as a leader in higher education and an advocate of women's issues.

Dr. Josiah Bunting is the headmaster of The Lawrenceville School in Lawrenceville, New Jersey, and the former president of Hampden-Sydney College. He also served as a major in the U.S. Army.

Sara King is a program director at the Center for Creative Leadership. Along with this, she is coeditor of two Center publications which highlight leadership education programs and courses in higher education settings.

Susan Estrich is a professor of law and political science at the University of Southern California. She writes frequently about issues involving law and gender.

Mary Baldwin College faculty and staff members participated in the External Advisory Council meeting as well. The council plans to meet twice a year to provide ongoing advice and review of the VWIL program.